IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF AUGUST,
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION No.15457 OF 2006

Between:

M.ASHOK KUMAR

..... PETITIONER

AND

The State of A.P. rep. by Superintendent of Police,
Krishna District, Chilakalapudi, Machilipatnam,
And another.

....RESPONDENTS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.15457 OF 2006

O R D E R
(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **"…Hon'ble Court may be pleased to issue an order, direction or Writ more particularly one in the nature of WRIT OF HABEAS CORPUS by directing the Respondents to produce the Detenue Sri S.M.Kantha Raju, S/o.Mathews, R/o.Krishna District before this Hon'ble Court by holding the impugned action of detaining Sri S.M.Kantha Raju by Dasari Yakub as highly illegal, arbitrary and unconstitutional being violative of Article 21 & 22 of Constitution of India and …"**

The petitioner claims to be the Convener and Correspondent of CNC Schools, Vuyyuru Field-I, Krishna District. The petitioner alleged that a body was formed in the name of 'Convention of Baptist Churches of Northern Circars', which is registered under the Societies Registration Act and the activities of the said society are regulated by the Executive Board created under the bye-laws of the society. It appears that the said society is running 214 educational institutions in various coastal Districts in Andhra Pradesh. One Mr.S.M.Kantha Raju was elected in the year 1992 as President of the said society and re-elected in the year 1997 for a period of five years. It is further alleged in the affidavit filed in support of the writ petition that the above-mentioned Kantha Raju appointed Dasari Yakub as Convener of the

Educational Committee of the above-mentioned society and the said Dasari Yakub confined Mr.S.M.Kantha Raju at his residence and is not permitting anybody to see the above-mentioned Kantha Raju. It is further stated in the affidavit that when the petitioner approached the above-mentioned Dasari Yakub to permit him to see Kantha Raju, he was not allowed to do so. Thereupon, the petitioner it appears made a representation to the Superintendent of Police, Krishna District at Machilipatnam, about the illegal confinement of S.M.Kantha Raju by Dasari Yakub. Hence, the present writ petition.

Dasari Yakub is the 2nd respondent herein. The learned Advocate General took notice on behalf of the 1st respondent on 28.07.2006 and filed counter-affidavit. The 1st respondent in his counter stated that on the representation made by the petitioner, the 1st respondent deputed the Sub-Inspector of Police, Chilakalapudi Police Station, Machilipatnam, to enquire into the matter and the enquiry revealed that the alleged detenu Kantha Raju is residing with the 2nd respondent herein for the past four years on his own will. It is further stated that the wife and children of the above-mentioned Kantha Raju are no more and there is nobody to look after him and the 2nd respondent-Dasari Yakub is taking care of him.

The 2nd respondent also filed counter-affidavit wherein he admitted that he is looking after Kantha Raju and he is residing with the 2nd respondent. The contents of the 2nd respondent's counter discloses a lot of litigation between the 2nd respondent and the petitioner.

The information as available from the pleadings on record reveals that there is virtually a fight going on between various groups of members of the above-mentioned society for control over the management of the society, which obviously has huge properties at its disposal. The present writ petition is a part of the said process.

In view of the pleadings and more particularly, the admission of the 2nd respondent that Kantha Raju is living with him and upon the examination of the said affidavit, we thought it fit to direct the 2nd respondent to produce Kantha Raju before this Court.

Today, Mr.Kantha Raju is produced before us. He is an elderly gentleman of about 88 years and is physically very weak and brought in the wheel chair to this Court, and on the request made by the learned counsel for the 2nd respondent to examine Mr.Kantha Raju in the

Chambers of one of us at 10.30 A.M. in the presence of the learned counsel for the petitioner, learned Government Pleader representing the 1st respondent and learned counsel for the 2nd respondent.

Mr.Kantha Raju admitted that he is staying with the 2nd respondent on his own volition and there is no illegal confinement by the 2nd respondent. He stated that because he has nobody to look after him as his wife and only child had passed away sometime back, the 2nd respondent is taking care of him. In fact, in the affidavit dated 6th August, 2006 filed by the above-mentioned Kantha Raju, it is categorically stated at para 5 as follows:

> **"5. … The said Dasari Yakub never wrongfully confined me or kept me in illegal custody. I am a Post Graduate and retired teacher I know who is my well-wishes and who is not well-wishes. I am quit happy to stay with Sri Dasari Yakub."**

In the circumstances, we do not see any merit in the writ petition and the same is dismissed.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

28TH AUGUST, 2006
PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION No.15457 OF 2006
(Per Sri Justice J.Chelameswar)

28TH AUGUST, 2006